

**TIPPECANOE COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING  
NOVEMBER 20, 2006**

The Tippecanoe County Commissioners met on Monday, November 20, 2006 at 10:00 A.M. in the Tippecanoe Room in the County Office Building. Commissioners present were: President John L. Knochel, Vice President Ruth E. Shedd, and Member KD Benson. Also present were: Auditor Robert A. Plantenga, Commissioners' Assistant Frank Cederquist, County Attorney David W. Luhman, and Secretary Pauline E. Rohr.

President Knochel called the meeting to order and led the Pledge of Allegiance.

***APPROVAL OF MINUTES***

- Commissioner Shedd moved to approve the Minutes of the November 6, 2006 Regular Meeting as distributed, seconded by Commissioner Benson; motion carried.

***IMPLEMENTATION GRANT APPLICATION: Superior Court: JoAnn Miller, Associate Professor of Sociology at Purdue University***

On behalf of Tippecanoe County, Superior Court is applying for a Federal Implementation Grant in the amount of \$124,591. The application is in response to the U.S. Department of Justice Request for Proposals regarding Comprehensive Approaches to Sex Offender Management (CASOM) Program. As the proposal writer, Ms Miller requested some technical assistance from the County in preparing the compliances and assurances that are required for the application.

Commissioner Shedd asked what technical assistance is being requested from the County. Ms Miller said the Department of Justice requires a series of statements listing the compliance policies the County follows such as Fair Workplace Employment. President Knochel said the Interim Grant Coordinator, the Commissioners' Assistant, and Commissioner Benson will help compile the list.

- Commissioner Shedd moved to approve proceeding with the procedure for the Implementation Grant application in the amount of \$124,591, seconded by Commissioner Benson; motion carried.

***APPROVAL OF ACCOUNTS PAYABLE VOUCHERS***

- Upon the recommendation of Commissioners' Assistant Frank Cederquist, Commissioner Benson moved to approve the Accounts Payable Vouchers with no exceptions, seconded by Commissioner Shedd; motion carried.

***HIGHWAY: Executive Director Opal Kuhl***

**Ordinance 2006-24-CM: Amending Tippecanoe County Code Chapter 72, Schedule I, Traffic Schedules regarding Speed Limits: Second Reading (First Reading 11/6/2006)**

Ordinance 2006-24-CM will appear in its entirety in the Ordinance and Resolution Book in the County Auditor's Office.

Ms Kuhl explained these proposed speed limit changes resulted from a speed study. No comments regarding the ordinance have been received. She reviewed the locations:

- A. County Road 250 West starting at US 52 to 2,500 feet north of US 52 the maximum speed limit shall be 30 mph. (Residents of apartments and duplexes park in front of the buildings and back onto the roadway.)

- B. On Old Romney Road from Old US 231 to County Road 400 South the maximum speed limit shall be 30 mph. (This is a shortcut from Old US 231 to new US 231.)
- C. On County Road 400 South from Old Romney Road to US 231 the maximum speed limit shall be 30 mph. (This is a shortcut from Old US 231 to new US 231.)
- D. On County Road 650 South from SR 25 to 3,500 feet west of SR 25 the maximum speed limit shall be 35 mph. (No previously posted speed limit. Imposing 35 mph speed limit due to number of new houses, school buses, turns, and wooded areas.)
- E. On County Road 375 South from Old US 231 to County Road 25 East the maximum speed limit shall be 35 mph. (Due to soccer fields, Fiddlesticks SD, and abrupt right turns.)
- F. On County Road 25 East from County Road 375 South to County Road 400 South the maximum speed limit shall be 35 mph. (Due to soccer fields, Fiddlesticks SD, and abrupt right turns.)
- G. On County Road 400 South from County Road 25 East to the City of Lafayette Limits the maximum speed limit shall be 35 mph. (Due to soccer fields, Fiddlesticks SD, and abrupt right turns.)
- Commissioner Shedd moved to approve Ordinance 2006-24-CM on second reading, seconded by Commissioner Benson.

Auditor Plantenga recorded the vote:

John Knochel	Yes
Ruth Shedd	Yes
KD Benson	Yes

- The motion to approve Ordinance 2006-24-CM passed 3 – 0 on second and final reading.

#### **Consent to Encroach Agreement: Tippecanoe County and Purdue University**

Ms Kuhl explained that Purdue University requested permission to place water quality monitoring equipment onto Davis Ferry Bridge. However, they have not delivered required exhibits by the 10:00 A.M. deadline.

- Commissioner Shedd moved to table this request to encroach by Purdue University until the exhibits are received, seconded by Commissioner Benson; motion carried.

#### **Street Acceptance: Raineybrook SD Pt 2, Sec 2, Ph 2 Irrevocable Letter of Credit #603: \$30,670: Rbrook, LLC**

<u>Street Name</u>	<u>Length Ft.</u>	<u>Road Width</u>	<u>R/W Width</u>	<u>Surface</u>	<u>Type</u>
Wharfside Parkway	1,192.09	24'	50'	Concrete	Curb & Gutter
Total	1,192.09' = 0.225 Miles		Total Lots: 0 (Outlots "A" & "B")		

- Commissioner Shedd moved to accept the street in Raineybrook SD Pt 2, Sec 2, Ph 2 and Irrevocable Letter of Credit #603 in the amount of \$30,670 for Rbrook, LLC, seconded by Commissioner Benson; motion carried.

**Utility Maintenance Bond #0495322: First Time Development Corp.**

- Commissioner Shedd moved to accept Three (3) year Utility Maintenance Bond #0495322 in the amount of \$5,000 for First Time Development Corp. for work in County Right-of-Ways, seconded by Commissioner Benson; motion carried.

***CONTRACT: Youth Services Executive Director: Commissioner KD Benson***

Commissioner Benson explained that three (3) applicants submitted Statements of Qualifications for the Youth Services Executive Director position. However, only one applicant, former Cary Home Director Rebecca Humphrey, met the requirement of a Master's Degree in Business Administration.

- Commissioner Benson moved to hire Rebecca Humphrey as Youth Services Executive Director subject to execution of the contract, seconded by Commissioner Shedd.

Commissioner Shedd mentioned there is an article in the most recent *Krannert News* about Rebecca Humphrey.

- The motion carried.

***CONSULTING AGREEMENT: RE Sutton & Associates, LLC: Commissioners' Assistant Frank Cederquist***

Mr. Cederquist explained that RE Sutton & Associates, LLC has been the County's consultant for the group employee benefit plans for approximately seven years. They are currently paid \$750 per month but, effective November 1, 2006, the consulting fee increased to \$850 per month. He said the consulting fee will increase to \$950 per month effective November 1, 2007. Mr. Cederquist noted that Gayle Byers, our agent, suggested a review of the County's health plan next Spring.

- Commissioner Shedd moved to approve the consulting Agreement with RE Sutton & Associates, LLC in the amount of \$850 per month, seconded by Commissioner Benson; motion carried.

***POLITICAL PATRONAGE POLICY: Commissioners' Assistant Frank Cederquist***

Mr. Cederquist submitted the following for insertion in the County's Personnel Policy:

(quote)

**Political Patronage**

1. The use of federal funds of any kind by an Elected Official, Appointed Official or employee of the County for political activity is strictly prohibited.
2. County offices, property, equipment, materials, resources, contacts, etc. shall not be used by any Elected Official, Appointed Official or employee of the County, for actual or implied partisan political activities or, for any purpose other than the day to day work of the County.
3. An employee of the County violating the provisions of this policy may be disciplined up to and including the termination of employment.

(unquote)

- Commissioner Shedd moved to insert the section on Political Patronage into the County's Personnel Policy, seconded by Commissioner Benson; motion carried.

## ***COURTHOUSE DISPLAY***

President Knochel announced that Mary Pat Hall requested to be on today's agenda. He said he would allow her five (5) minutes to speak and allow all other speakers three (3) minutes.

Mary Pat Hall, 2717 Newman Rd., W. Laf.: Mrs. Hall said she is requesting a display of the Nativity on the Courthouse lawn for a reasonable number of days. She feels that Christians in this country have been targeted but thinks Christianity is a part of our culture. In her opinion, religious freedom is being stripped from us. She pointed out that the Nativity was displayed at the Courthouse prior to its restoration.

Jan Lehnen, 2322 Manitoba Dr., Laf.: Ms Lehnen thinks it is wrong to suppress religious freedom. She thinks the war on Christians is wrong and the Commissioners should do what is right and stand up to the forces against the display.

Gary Strup, 8247 E 150 S, Laf.: Mr. Strup said government shouldn't be hostile to religious organizations and thinks there is a misunderstanding of the First Amendment. He said a 2005 Gallop poll showed that 3% of Americans are offended by hearing or seeing "Merry Christmas", 95% celebrate Christmas, and 84% describe themselves as Christians.

Joe Venable, 141 Indian Rock Dr., W. Laf.: Mr. Venable said he is a member of the Episcopal Church, a leader in having no official religion in the United States. He thinks a Nativity display on the Courthouse lawn would be the start of a slippery slope downward. Mr. Venable said individuals can display the Nativity on their own private property, but he thinks it is a bad idea to display the Nativity on public or government property.

Jon Held, 8494 N 550 N, W. Laf.: Mr. Held said if the forum is open for one then it should be open for all and cited the Christmas Parade reviewing stand as an exception to the closed forum. Other examples are the thermometer for the United Way, Pig statues, Frog statues, child abuse ribbons, breast cancer ribbons, Round the Fountain Art Fair, and Gus Macker scoring stand. He pointed out that Purdue, a State University, features sacred music in the second half of its annual Christmas Show. In his opinion, this is an authority issue for the Commissioners.

Attorney Luhman read the Policy on Displays and Events on Government Property (Closed Forum) that was last reviewed by the Commissioners on November 19, 1999.

(quote)

### **POLICY ON DISPLAYS AND EVENTS ON GOVERNMENT PROPERTY (CLOSED FORUM)**

Only displays and events sponsored and prepared by a department or office of county government will be allowed in the windows of the Tippecanoe County Office Building or on the grounds of the Tippecanoe County Courthouse. Said displays and events shall be scheduled through the Board of Commissioners of the County of Tippecanoe.

(unquote)

Commissioner Benson said she doesn't support a change in the policy. Nativity scenes can be displayed on private and church properties but, in her opinion, such a display is inappropriate on government property.

Commissioner Shedd reported a conversation in which it was commented that, if all Christians placed a Nativity in their yard, there would be no need for one in public places. She wondered why all Christians don't have one.

President Knochel commented that there was a great debate on this issue a few years ago and the policy put in place at that time has served the County well. He agreed it is not time to change the policy.

There was no motion to change the policy.

***APPOINTMENT: Common Wage Board***

- Commissioner Shedd moved to appoint Betty Michael to the Common Wage Board for the City of West Lafayette Parking Garage Capital Repairs project, seconded by Commissioner Benson; motion carried.

***REPORTS***

Reports from Veterans Affairs and Weights & Measures are on file in the Commissioners' Office for review.

***PUBLIC COMMENTS***

Gary Strup, 8247 E 150 S, Laf.: Mr. Strup asked if the Commissioners make policy for the County and, if they do, if one of the Commissioners would propose to rethink the policy at a future date. He said he is concerned that the Courthouse Square is used for other events but the Commissioners reject only this one. Mr. Strup requested they review the Constitution regarding the separation of Church and State.

President Knochel briefly reviewed some of the approved events held around the Courthouse:

- Gone Hog Wild: CASA, a County department, received some of the proceeds from the sale of the pigs.
- Frog Follies: CASA, a County department, received some of the proceeds from the sale of the frogs.
- Round the Fountain Art Fair: The Arts Federation donates some of the proceeds to Courthouse restoration.
- Christmas Parade: Only the Courthouse steps are used. This is the one exception to the policy.
- Ribbons: Most or all of the causes are involved with departments in the Courthouse in one way or another.

Gus Macker: President Knochel said he is not aware that this event was ever given permission to use any part of the Courthouse property. He said all who use Courthouse property must have a Certificate of Insurance and Mr. Cederquist confirmed that Gus Macker did not.

Referring to a picture Mrs. Hall previously submitted to the Commissioners of a pig statue in front of the Fourth Street entrance to the Courthouse, Commissioner Shedd noted that the Commissioners had not given permission for the display at that location and the pig was moved.

Mr. Strup asked if the Nativity would be acceptable for display if it could be attached to some charitable agency or County department or if a donation were made to the County.

Attorney Luhman responded that such actions would not take it out of the issue of whether or not the County government is endorsing a religion or sponsoring a religious activity. Under the existing County policy, only secular displays and displays and events that contributed directly to the promotion of programs of County departments or that foster the activities of County government have been placed on the Courthouse grounds. There have not been any religious displays endorsed or sponsored by the County.

Attorney Luhman continued to explain that, were the County to sponsor or endorse a religious display, they would obviously have difficulty with regard to the establishment clause. He said he would have to counsel the Commissioners on what the state of the law is with respect to government endorsement of religious displays, and he would have to tell them that the last time the Supreme Court of the United States addressed this issue, was in July 2005. On July 27, 2005, the Supreme Court issued two cases, one in Texas and the other in Kentucky, that were dealing with monuments that contained the Ten Commandments. In the Texas case, a monument had been placed on the grounds of the Texas State Capitol along with approximately 21 other monuments that had been there for over 40 years. There was a request that it be removed but the Supreme Court did not require its removal because they found it had been placed there for a secular purpose, not a religious purpose. Decided on the same day was the Kentucky case in which two counties wanted to place the Ten Commandments in their courthouses

for a religious purpose. After an injunction was issued, the counties added other historical documents to the display. but that was not sufficient to save it from the supreme Court's determination that that was an impermissible endorsement of religion and violation of the establishment clause. Given the recent history of the Supreme Court's addressing of the issue, Attorney Luhman said he doesn't believe that the County could sponsor or endorse the placement of a Nativity scene on the Courthouse grounds and not violate the establishment clause as its been most recently defined by the Supreme Court in those two cases.

Jon Held, 8494 N 550 N, W. Laf.: Mr. Held said the exception for the Christmas Parade reviewing stand is a violation of the County's Policy. He asked which department is in charge of Breast Cancer and the pigs. He said sponsorship may have been added but those activities were not driven by a County department. Mr. Held wondered how many Chaplains would lose their jobs if they were no longer a part of the Military. He said he wished the Commissioners would reconsider and asked which County department is in charge of Breast Cancer.

Commissioner Benson responded that there have been no pink ribbons for Breast Cancer on the Courthouse. She said red ribbons are for Juvenile Court drug free activities in partnership with the Coalition for a Drug Free Tippecanoe County and blue ribbons are for Prevention of Child Abuse. She pointed out that a separate Parade Policy separate from any event or forum on the Courthouse grounds was previously adopted by the County.

Attorney Luhman read the Parade Policy adopted in November 1999:

(quote)

#### **PARADE POLICY**

Any organization which has obtained permission from the City of Lafayette to conduct a parade which passes the Tippecanoe County Courthouse between the hours of 8:00 a.m. and 7:00 p.m. on a Saturday, Sunday, or Monday or any holiday that the courts are not in session, may apply for permission to erect a reviewing stand on the north steps of the courthouse and to use the courthouse bathrooms by submitting an application to lease County property to the Board of Commissioners. The sponsor of the parade must obtain a certificate of insurance in the amount \$500,000/\$100,000/\$500,000 limits.

A plainly visible sign must be posted at both sides of the reviewing stand identifying the sponsor of the parade and disclaiming any endorsement by Tippecanoe County. A notice in the following language is acceptable: "This parade is sponsored by [Sponsoring Group]. Permitting this parade does not constitute an endorsement by Tippecanoe County." This sign must be visible enough to read from a distance of ten (10) feet and no larger than twenty-four inches by thirty-six inches (24 x 36).

(unquote)

Jan Lehnen, 2322 Manitoba Dr., Laf.: Ms Lehnen said the Nativity was on the Courthouse lawn for many years without a complaint. She doesn't believe the Nativity is an endorsement of religion but an endorsement of our heritage.

President Knochel thanked those in attendance today and said their love for their Country was never in question.

#### ***ADJOURNMENT***

- Commissioner Shedd moved to adjourn, seconded by Commissioner Benson; motion carried.

**BOARD OF COMMISSIONERS OF  
THE COUNTY OF TIPPECANOE**

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John L. Knochel, President

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Ruth E. Shedd, Vice President

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KD Benson, Member

**ATTEST:**

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Robert A. Plantenga, Auditor